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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,049	11/07/2001	William E. Mazzara	GP-301610	1827
7590	07/12/2004		EXAMINER	
General Motors Corporation Legal Staff, Mail Code 482-C23-B21 300 Renaissance Center P.O. Box 300 Detroit, MI 48265-3000			CAI, WAYNE HUU	
			ART UNIT	PAPER NUMBER
			2681	3
DATE MAILED: 07/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/040,049	MAZZARA ET AL.
	Examiner	Art Unit
	Wayne H Cai	2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 November 2001.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-24 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 2.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 365 (figure 3). Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Marked-up Drawings" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murata (Makoto Murata, US Patent No.: 6,181,952 B1) in view of Khullar (Anders Khullar, US Patent No.: 6,748,246 B1).

Regarding claims 1 and 10, Murata teaches a method and system for providing multi-path communication for a mobile vehicle comprising: receiving a service request (column 7, lines 47-48, and figure 1-2), requesting communication from one of the primary communication device and the secondary communication device based on the capability determination (column 7, lines 51-56).

Murata does not teach the method of determining availability of at least one primary communication device and at least one secondary communication device in response to the service request, and determining capability of the primary communication device and the secondary communication device.

Khullar teaches the method of determining availability of at least one primary communication device and at least one secondary communication device in response to the service request, and determining capability of the primary communication device and the secondary communication device (column 3, lines 45-56).

It would have been obvious to a one of ordinary skill in the art at the time the invention was made to combine Murata's method of receiving a request, and requesting the communication with Khullar's method of determining availability and capability of primary and secondary communication device because it would be more efficient in selecting a low power mode, and make it a more reliable communication links.

Regarding claims 2 and 11, Murata teaches the method of initiating a service request from one of the primary communication device and the secondary communication device (column 7, lines 45-47).

Regarding claims 3, Khullar further teaches the capability determination based on factors of battery life viability (column 4, line 3-5), service availability (column 4, line 17-22), type of service and call state (column 4, line 22-31). And Murata teaches relative signal strength indication (column 8, line 22-27).

Regarding claims 4-5, Khullar also discloses that the battery life viability is based on a power state and a power life, and determines a calibrated threshold for the battery life viability (column 4, lines 1-4).

Regarding claims 6, 12-13, Khullar discloses the method and system to determine the battery life viability if the calibrated threshold is exceeded. The signals indicate the amount of energy remaining in the battery and the operating mode is determined based on the power state of the battery (column 6, lines 11-32).

Regarding claims 7-8, 14-15, Murata discloses the system and method of determining a calibrated threshold for the received signal strength indication, and determining the received signal strength indication if the calibrated threshold is exceeded (column 1, lines 49-60).

Regarding claims 9, Khullar shows that wherein the type of service is analog communication, digital communication, satellite communication, and global system for mobile communication (figure 1).

Regarding claims 16-24, the claims are interpreted and rejected for the same reason as set forth in claim 1-9 above.

Claim Objections

5. Claim 2 is objected to because of the following informalities: line 2 of claim 2 recites "initiating a service request", it appears to mean -- initiating the service request -- Appropriate correction is required.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne Cai whose telephone number is (703) 305-0265. The examiner can normally be reached on Monday-Friday, 10:00-7:30, alternating Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Erika A Gary can be reached on (703) 308-0123. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Wayne H Cai
Examiner
Art Unit 2681

WHC



ERIKA GARY
PATENT EXAMINER